



August 8, 2022

VIA E-FILING

The Honorable Richard G. Andrews
United States District Judge
J. Caleb Boggs Federal Building
844 N. King Street
Unit 9, Room 6325
Wilmington, DE 19801-3555

Re: *Noel Borg v. Dean Irwin, et al.*, Case No. 19-cv-1847-RGA

Dear Judge Andrews:

Plaintiff Noel Borg ("Plaintiff"), Individual Defendants Dean Irwin, Melissa Burstein, Martin Burstein, Andrew Jackson, Richard Heymann, Maurice Buchbinder, Martin Colombatto, Richard Mejia, Jr., William R. Enquist, Jr. and Mark E. Saad, and Nominal Defendant Ra Medical Systems, Inc. ("Defendants" and with Plaintiff, the "Parties") respectfully submit this joint status letter in response to the Court's August 2, 2022 Oral Order (D.I. 13).

The verified shareholder derivative complaint was filed on October 1, 2019. On October 21, 2019, the Parties entered into the Joint Stipulation and [Proposed] Order Staying Action (the "Stay Stipulation") (D.I. 5). Your Honor granted the Stay Stipulation on October 21, 2019 (the "Stay Order") (D.I. 6) and administratively closed the action (D.I. 7). According to the Stay Order, this derivative action is stayed until the resolution of the related securities class action, *Derr v. Ra Medical Systems, Inc., et al.*, Case No. 3:19-cv-1079-LAB-AHG, pending in the United States District Court for the Southern District of California (the "Securities Class Action") (D.I. 6 at ¶2).

The Securities Class Action remains pending. What follows provides an overview of the developments in the Securities Class Action since the Parties' prior status letter to this Court on December 28, 2020 (D.I. 10).

On March 24, 2021, the court issued an order granting in part and denying in part the Securities Class Action defendants' motion to dismiss. On April 19, 2021, lead plaintiffs in the Securities Class Action filed a second amended complaint, which defendants moved to dismiss on June 10, 2021. Prior to a decision on the motion, the parties reached an agreement to settle the case and, on November 15, 2021, lead plaintiffs filed a notice of unopposed motion and motion for preliminary approval of the class action settlement. On February 11, 2022, the court entered an amended order granting preliminary approval of the class action settlement. On May 2, 2022, lead plaintiffs filed a notice of motion and motion for final approval of the class action settlement and plan of allocation, and lead counsel filed a notice of motion and motion for an award of attorneys' fees and reimbursement of litigation expenses. The hearing on final approval of the Securities Class Action settlement is currently scheduled for August 15, 2022.

The Parties agree that should Judge Larry Alan Burns finally approve the settlement in the Securities Class Action, then the stay here should be lifted. Unless otherwise ordered, the Parties

will submit a proposed schedule for the next steps of the litigation within thirty (30) days after the appeal period has run for the order granting final approval of the Securities Class Action settlement. In the meantime, while the Securities Class Action remains pending, the Parties are in agreement that this action should remain stayed pursuant to the terms of the Stay Order.

We are available at the Court's convenience should Your Honor have any questions.

Respectfully submitted:

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